

TIME EXTENSION APPLICATION FORM

Under s. 11(4) of the *Right to Information and Protection of Privacy Act*

Individuals who make access to information requests or make a request for correction of personal information under the *Right to Information and Protection of Privacy Act* are entitled to a timely response to their requests. However, the *Right to Information and Protection of Privacy Act* recognizes that, in certain circumstances, public bodies may not be able to meet the statutory time limit of 30 business days. When these circumstances arise, s. 11(3) allows public bodies to take up to an additional 30 business days to respond to a request, if one of the circumstances enumerated therein applies. In the event that the additional 30 business days is still not sufficient, a further time extension may be granted with the permission of this Office.

This document is intended to assist public bodies with establishing whether the conditions apply for requesting time extensions under s. 11(4).

Before submitting a time extension application, we strongly encourage public bodies to contact the applicant to discuss the request and the reasons why the public body is encountering difficulties in meeting the statutory time limit to respond to the request.

Please submit this application form **NO LATER THAN 10 BUSINESS DAYS** before the statutory time limit to respond to the access request. Please ensure that you provide sufficient details and necessary information in support of this application so that this Office is in a better position to approve your time extension application. Applications that are missing information or that include incorrect information are more likely to be declined.

Please indicate the grounds for this time extension application (indicate all that apply):

- ☐ 11(3)(a) – applicant did not provide sufficient detail to enable to public body to identify records (p.3)
- ☐ 11(3)(b) – applicant did not respond to request for clarification as soon as practicable (p.4)
- ☐ 11(3)(c) – large number of records requested or to be searched (p.5)
- ☐ 11(3)(c) – unreasonable interference with public body's operations (p.6)
- ☐ 11(3)(d) – time is needed to notify and receive representations from a third party (p.8)
- ☐ 11(3)(d) – time is needed to consult with another public body (p.9)
- ☐ 11(3)(e) – third party complaint or court referral (p.11)
- ☐ 11(3)(f) – request for records relating to court proceedings (p.12)

How much additional time is being sought to complete processing the request: _____

Please submit applications by email, fax or post to the contact information listed below.

ACCESS AND PRIVACY DIVISION
DIVISION DE L'ACCÈS À L'INFORMATION ET DE LA PROTECTION DE LA VIE PRIVÉE
230-65 Regent St., Fredericton, NB E3B 7H8
☎ 506.453.5965/877.755.2811 📠 506.453.5963
✉ aip-aivp@gnb.ca
www.oic-bci.ca

PUBLIC BODY INFORMATION

Name of Public Body: _____

Contact name: _____

Contact's telephone number: _____

Contact's e-mail address: _____

DETAILS OF ACCESS REQUEST

Please attach a copy of the access request with this application.

Date request was received: _____

30-business day time limit for response: _____

60-business day time limit for response, if applicable: _____

(please attach a copy of extension letter sent to applicant)

STATUS OF ACCESS REQUEST

Is the search completed at this time? ☐ Yes ☐ No

Is the processing of the relevant records completed at this time? ☐ Yes ☐ No

Have any third parties been notified at this time? ☐ Yes ☐ No

Has any other public body been consulted at this time? ☐ Yes ☐ No

Approximate number of pages of relevant records searched at this time, or anticipated to be searched: _____

Has the public body issued a partial response to the applicant at this time? ☐ Yes ☐ No

Please complete all sections that apply.

1. 11(3)(a) – Failure to provide sufficient detail

This provision applies when an applicant does not provide sufficient detail in the request to enable a public body to identify a requested record. To “clarify” a request is to make clear what the applicant is seeking so that the public body is able to identify the requested record. To “narrow” means to reduce the scope of the request, i.e. decrease the number of records requested/timeframe of the request. If the public body can identify the requested records, but is seeking to narrow the scope of the request, the public body cannot apply for a time extension under this provision.

Test: when applying under this provision, the public body must explain why more detail is required to identify a record.

Please explain the difficulty with the wording of the request or why the request is not clear.

What attempts were made to clarify the request with the applicant (please describe the number of attempts, the dates of the attempts and copies of any communications with the applicant)

What was the date the request was clarified? _____

2. 11(3)(b) – applicant did not respond to request for clarification as soon as practicable

This provision applies when a public body has asked the applicant, in writing, to clarify a request and the applicant has not responded to the public body as soon as practicable. To “clarify” a request is to make clear what the applicant is seeking so that the public body is able to identify the requested record. To “narrow” means to reduce the scope of the request, i.e., decrease the number of records requested. If the public body can identify the requested record, but is seeking to narrow the scope of the request, the public body cannot apply for a time extension under this provision.

If a request for clarification was made in writing and the applicant does not respond within 20 business days after receiving the request, the public body may deem the access request abandoned and need not apply for a time extension.

Test: When applying under this provision, the public body must explain why it requires additional clarification from the applicant to process the request.

Please explain why the public body required clarification of the request from the applicant.

When was the applicant contacted, in writing, to obtain clarifications? (include all dates and written communications with the applicant)

When did the applicant provide a response to the public body’s request for clarification? (include all dates and written communications with the applicant) _____

3. 11(3)(c) – large number of records requested or to be searched

This provision applies when a large number of records have been requested or must be searched.

Approximate total number of pages of relevant records: _____

- Approximate number of pages of physical records searched: _____
- Approximate number of pages of electronic records searched: _____
- How does the volume of this request compare with average request volume?

- Do records need to be searched outside of the public body? If so, where? (ex.: archives)

Has the search been completed at this time? ☐ Yes ☐ No

- If yes, when was it completed? _____

- What steps were taken to conduct the search? (provide as many details as possible)

- How many employees were asked to search? _____
- What date were the employees asked to search and by what date were they asked to return the results of the search? _____

Have all employees completed their respective search? (if applicable) ☐ Yes ☐ No

- If not, when do they anticipate being able to complete the search? _____

If search not completed at this time:

- Approximate number of pages already searched: _____
- Amount of time spent to date searching electronic records: _____
- Amount of time spent to date searching physical records: _____
- Total amount of time to date spent performing search: _____
- Approximate additional time required to search electronic records: _____
- Approximate additional time required to search physical records: _____
- Approximate time required to perform the search: _____

4. 11(3)(c) – unreasonable interference with public body’s operations

This provision applies when the nature of the request is such that responding within the time period set out in section 11 would interfere unreasonably with the operations of a public body. Keep in mind that the following factors are not relevant:

- The public body has not been allocated sufficient resources
- Long term or systemic problems
- Office processes (e.g. delays in sign-offs)
- Personal commitments
- Pre-planned events (e.g. retirements, vacations)
- Previous time extension taken and no work done on file
- Type of applicant (e.g. media, political, etc.)

The determination of what constitutes an unreasonable interference in the operation of a public body rests on an objective assessment of the facts. What constitutes an unreasonable interference will vary depending on the size and nature of the public body.

How would meeting the time limit unreasonably interfere with the operations of the public body:

How many active requests is the public body currently processing? _____

How does the size and scope of this access request compare to the average access requests received by the public body?

Are the requested records in an unusual format (map, database, etc.) (please explain)?

Has the public body seen an increase in access requests in the past few months? (if yes, please explain)

Has the Coordinator’s workload significantly increased in the past few months: (if yes, please explain)

Did the public body encounter any computer or technical problems while processing the request?

How has this access request affected the public body's staff's resources and current workload?

Were staff members reallocated from other activities to respond to the access request?

Has responding to the access request affected the public body's ability to respond in a timely manner to other access requests or other access and privacy related activities? (please explain)

Has the Coordinator had an unexpected leave? If yes, does the public body have an alternate/back-up Coordinator who is able to assist in the processing this access request?

5. 11(3)(d) – notification of third party

This provision applies when more time is needed to notify a third party before deciding whether or not to grant access to requested records, and the third party's response to the notification could not reasonably be completed within the time limit.

Note: a "third party" does not include a branch or division of the public body, another public body, or the public body's internal or external legal counsel.

Test: the public body needs to explain why it is necessary to notify the third party in making a decision about access, including how the third party is expected to assist.

How many third parties need to be notified under s. 21 and/or s. 22 of the *Act*? _____

What type of records require third party notification?

Have the third parties been notified at this time? ☐ **Yes** ☐ **No**

If yes,

- When was the notification letter(s) sent? (include a copy of letters)

- Was there any delay in notifying the third part(ies) (please explain):

- Date third part(ies) are to provide representations to public body _____

If no, why not?

- When does public body anticipate notifying the third part(ies)? _____

Approximate number of pages of records requiring notification: _____

6. 11(3)(d) – consultation with another public body

This provision applies when more time is needed to consult with another public body before deciding whether or not to grant access to requested records, and the consultation could not reasonably be conducted during the time limit. Also, consultations with another public body do not trigger the notification process stipulated in s. 34 of the Act.

Note: “another public body” does not include a branch or division of the public body, or the public body’s internal or external legal counsel.

Test: the public body needs to explain why it is necessary to consult with another public body before making a decision about access, including how the other public body is expected to assist.

Which other public bodies were consulted?

Why are the consultations necessary?

Have the public bodies been consulted at this time? ☐ **Yes** ☐ **No**

If yes,

- What date did public body ask for consultation (include a copy of correspondence):

- How long were the consultations or how long are they likely to take?

If no,

- Please explain why

- When does public body anticipate consulting with other public bodies?

Number of pages of records requiring consultation: _____

Do all relevant records require consultation? ☐ **Yes** ☐ **No**

7. 11(3)(e) – third party complaint or court referral

This provision applies when a third party files a complaint under s. 36 with this Office or a referral with the Court after having been informed by the public body of its decision to give access to a record containing the third party's personal information or business interest information. The public body can then apply for a time extension of the time limit to allow this Office or the Court the time needed to investigate the third party's complaint or referral.

Note: Upon receiving a third party complaint, this Office will advise the public body, applicant and third party of the complaint and will advise of the timelines for us to complete our investigation at that time.

Date of complaint to this Office or referral to Court of Queen's Bench: _____

8. 11(3)(f) – request for records relating to a court proceeding

This provision applies where an applicant requests records that relate to a proceeding commenced by a Notice of Action or Notice of Application under the Rules of Court. The legal proceeding in question must be ongoing at the time of the public body's time extension application.

This provision does not apply to other kinds of legal proceedings, such as appeal proceedings or proceedings before administrative tribunals such as the Labour and Employment Board, the Human Rights Commission, etc.

Date Notice of Action or Notice of Application was filed with the Court: _____
Please attach a copy of the Notice of Action or Notice of Application.

Is the applicant involved in the proceeding? ☐ Yes ☐ No

Current status of the proceeding:

Date of actual and/or scheduled hearings before the Court: _____

Anticipated date of final resolution of the matter: _____

Please provide explanations as to how the records in question relate to the proceeding and why the public body wishes to extend the time limit to respond, rather than making a final decision on access rights at this time:

* Please note that we do not consider this provision as grounds to put an access request on hold indefinitely. Some matters end up before the courts for years. In our view, if a matter will remain before the courts for an extended period of time, the public body will need to make a decision about the applicant's access rights to such information in keeping with the exceptions to disclosure found under ss. 17 to 33 of the *Act*.

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